

FEB 12 2009

Stephan Harris, Clerk  
Cheyenne

Phillip Wolf  
4855 Miller Street  
Wheat Ridge, Colorado 80033  
In Propria Persona (not Pro Se)  
Proceeding without counsel

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF WYOMING

BEAVER CREEK LAND & CATTLE, LLC, )

Plaintiff, )

vs. )

PHILLIP WOLF, )

Defendant. )

Case No.: 08-CV-202-J

ANSWER AND MOTION TO DISMISS

Now comes Phillip Wolf (alleged defendant) dba PHILLIP WOLF (Defendant) and respectfully answers the complaint and moves this respectable court to dismiss the case on the grounds that plaintiff has stated a claim upon which relief cannot be granted.

ANSWER

1. Regarding FACTS COMMON TO ALL CLAIMS FOR RELIEF, paragraph "1.", defendant is without knowledge to confirm or deny.
2. Regarding FACTS COMMON TO ALL CLAIMS FOR RELIEF, paragraph "2.", defendant denies.
3. Regarding FACTS COMMON TO ALL CLAIMS FOR RELIEF, paragraph "2.", defendant states that Phillip Wolf has a habitation on the Land known as Colorado

1 and that the entity known as PHILLIP A. WOLF is a resident of STATE OF  
2 COLORADO.

3 4. Regarding FACTS COMMON TO ALL CLAIMS FOR RELIEF, paragraph "3.",  
4 defendant agrees.

5 5. Regarding FACTS COMMON TO ALL CLAIMS FOR RELIEF, paragraph "4.",  
6 defendant denies.

7 6. Regarding FACTS COMMON TO ALL CLAIMS FOR RELIEF, paragraph "5.",  
8 defendant denies.

9 7. Regarding FACTS COMMON TO ALL CLAIMS FOR RELIEF, paragraph "6.",  
10 defendant agrees.

11 8. Regarding FACTS COMMON TO ALL CLAIMS FOR RELIEF, paragraph "7.",  
12 defendant denies.

13 9. Regarding FACTS COMMON TO ALL CLAIMS FOR RELIEF, paragraph "8.",  
14 defendant agrees.

15 10. Regarding FACTS COMMON TO ALL CLAIMS FOR RELIEF, paragraph "9.",  
16 defendant is without knowledge to confirm or deny.

17 11. Regarding FACTS COMMON TO ALL CLAIMS FOR RELIEF, paragraph "10.",  
18 defendant denies.

19 12. Regarding FACTS COMMON TO ALL CLAIMS FOR RELIEF, paragraph "11.",  
20 defendant denies.

21 13. Regarding FACTS COMMON TO ALL CLAIMS FOR RELIEF, paragraph "12.",  
22 defendant denies.

1 14. Regarding FACTS COMMON TO ALL CLAIMS FOR RELIEF, paragraph "13.",  
2 defendant denies.

3 MOTION TO DISMISS

4 15. Defendant moves this court to dismiss this for failure to state a claim upon which  
5 relief can be granted on the grounds that plaintiff representatives, Josh Romney and  
6 Anthon Stouffer, had personal knowledge of the method of payment/financing to  
7 pay/setoff the purchase price.

8 16. Romney and Stouffer failed to mention in their complaint that there was a third  
9 document (Disclosure of payment method) that was tendered at the same time/before  
10 the contract signing. This fact was disclosed as Frank Robbins, original seller, wanted  
11 disclosure as to source of funds.

12 17. If plaintiff was injured it was at the devices of their own hands. It appears that  
13 plaintiff is appearing without clean hands.

14 18. Defendant also attaches an affidavit disclosing the story and details of the transaction  
15 proposal.

16 19. Proposed purchase agreements occur every day. Some close and some do not.

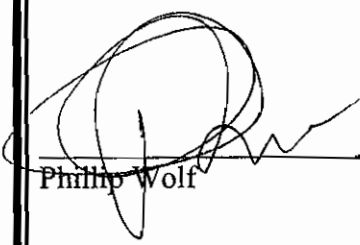
17 20. Plaintiff's request for compensation of gain or interest therein is without merit.

18 21. Plaintiff's request for earnest money compensation is without merit as it was  
19 plaintiff's not that of defendant as disclosure was made as to source of funds.

20 22. Defendant believes that plaintiff's greed is factor in consideration for suit not a basis  
21 in law for breach of contract.

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Respectfully submitted this <sup>rd</sup>23 day of November 2008.



Philip Wolf

1 I, Phillip A. Wolf, affirm under penalty of perjury that I have read the foregoing, know the contents  
2 therein and that to the best of my knowledge, understanding and belief, it is true, correct, and not  
3 misleading, the truth, and nothing but the truth.

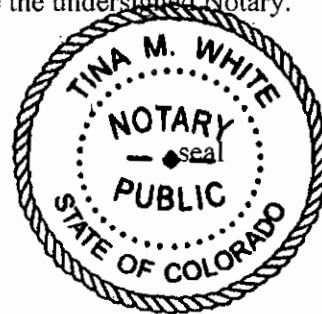
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6  
7  
8 Phillip Wolf  
9 4855 Miller Street  
10 Wheat Ridge, Colorado 80033  
11 In Propria Persona (not Pro Se)  
12 Proceeding without counsel  
13 \

14 Jurat

15 \  
16 State of Colorado )  
17 ) Subscribed, affirmed and sealed  
18 Jefferson county )  
19 \

20 On this 15<sup>th</sup> day of February 2009 the signor did personally appear before me, is known to be the  
21 person described herein, who executed the foregoing, affirmed the contents thereof, and executed the  
22 same as his free act and deed. Subscribed and agreed to before me the undersigned Notary.

23  
24  
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26  
27 Notary Officer Tina M. White  
28  
29



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31 \  
32 \

My Commission Expires 01/02/2011

1  
2 **CERTIFICATE OF SERVICE**

3  
4 COPY of the forgoing hand delivered,  
5 This \_\_\_\_ day of \_\_\_\_\_, 2008, to:

6  
7 Bret F. King  
8 King & King, LLC  
9 610 West Broadway, Suite 201  
10 PO Box 40  
11 Jackson, WY 83001  
12 (307) 733-2904  
13 (307) 733-1058 - facsimile  
14  
15  
16

17  
18 Service performed by:  
19 \_\_\_\_\_  
20 \_\_\_\_\_  
21 \_\_\_\_\_  
22 \_\_\_\_\_

I Philip A. Wolf certify that a copy via 1<sup>st</sup> class mail was  
mailed to Bret King at 610 W Broadway, Suite 201 Jackson WY.  
PO Box 40 83001 on November 24<sup>th</sup> 2008.

1 Phillip Wolf  
2 4855 Miller Street  
3 Wheat Ridge, Colorado 80033  
4 In Propria Persona (not Pro Se)  
5 Proceeding without counsel  
6  
7  
8

9 **IN THE UNITED STATES DISTRICT COURT**  
10 **FOR THE DISTRICT OF WYOMING**

11 **BEAVER CREEK LAND & CATTLE, LLC, )**

**Plaintiff,**

**vs.**

**PHILLIP WOLF,**

**Defendant.**

) Case No.: 08-CV-202-J  
)  
)

) **AFFIDAVIT IN SUPPORT OF**  
) **ANSWER AND MOTION TO DISMISS**  
)  
)  
)  
)  
)  
)

12  
13 State of Colorado )

) Subscribed, affirmed and sealed

14 )  
15 Jefferson county )  
16

- 17 1. I, Phillip A. Wolf (Affiant/Authorized Representative), appear and state under penalty of perjury that  
18 the following is true and correct.  
19 2. Affiant's habitation is on the soil of Jefferson county, Colorado.  
20 3. I Phillip A. Wolf affirm to these following details.  
21 4. I was told of a ranch property in Wyoming by Jeff Bretherton who introduced me to an Anthon  
22 Stouffer by telephone.  
23 5. Following a couple of telephone conversations Jeff and I agreed to meet in Thermopolis Wyoming on  
24 a Friday.

- 1 6. Over lunch Jeff and I talked about several generalities on the property, some of which the  
2 conversation concerned payment.
- 3 7. Mr. Bretherton had already told them about our purchase, payment options as much as he knew,  
4 dealing with bond, treasury access, etc.
- 5 8. We toured the proposed ranch property by car on Friday and had dinner with the seller Mr. Robbins  
6 that night.
- 7 9. Stouffer told me "whatever you do don't tell Robbins we are going to flip the ranch to you, as far as  
8 he knows Wolf is a part of Beaver Creek Land and Cattle Co."
- 9 10. Then we toured by helicopter on Saturday morning.
- 10 11. After I returned home the following week and several more discussions about the property and  
11 payment (Jeff and Robbins wanting to know more about the process of going to US Treasury,  
12 **Exhibits attached**) we agreed to move forward with the transaction.
- 13 12. One of the considerations was to accept the contract with no earnest money.
- 14 13. ALL OR NOTHING was the final acceptance, however, the seller wanted assurance the money  
15 would be there so I sent a copy of my paper work along with a disclosure to all parties stating my  
16 intent was not to cause fraud, harm, misrepresentation, etc. of any kind, that this was the first time I  
17 had used this method in purchasing something of this size and gave full disclosure to all parties  
18 including Mr. Robbins.
- 19 14. The disclosure must have been good enough, because we entered into contract with all of these terms  
20 spelled out in the contract.
- 21 15. I sent in my paper work to US Treasury with all documents necessary and waited.
- 22 16. Several calls came in periodically from the seller's side wanting to know if we had heard anything,  
23 and me repeating same answers.
- 24 17. There was nobody to talk to at the US Treasury so we just waited for the US Treasury to perform.
- 25 18. I believe we had an extension of time at one point but kept waiting.



1 19. I did receive a couple of correspondences with I.R.S./Treasury that I shared with the plaintiff, but still  
2 no money/performance by Treasury.

3 20. After we reached an impasse everybody's memory seems to fade on how we got there and fingers  
4 pointed and all of this was my fault and it caused a lot of harm to parties (which I am sure it did).

5 21. All parties tried to keep people in the loop to hopefully salvage the deals pending but to no avail.

6 22. There was another attempt to extend the contract but with a \$1million, non refundable deposit.

7 23. I restated, remember the ALL OR NOTHING we talked about from the beginning, and the answer  
8 was always the same "NO."

9 24. Now here we are.

10 \

11 \

12 \

JAN 27 2009

Stephan Harris, Clerk  
Cheyenne

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF WYOMING**

BEAVER CREEK LAND & CATTLE, LLC,  
Plaintiff,

vs.

PHILLIP A. WOLF,  
Defendant.

No. 08-CV-00202J

**ORDER GRANTING DEFENDANT'S MOTION TO SET ASIDE  
ENTRY OF DEFAULT JUDGMENT**

The defendant's Motion to Set Aside Entry of Default and the defendant's Motion for Reconsideration for Entry of Default, and the plaintiff's response in opposition thereto have come before the Court for consideration. The Court, having considered the motions, all matters of record, and being fully advised in the premises, FINDS that the defendant's motions seeking to set aside entry of default should be GRANTED, for the reasons stated below.

**Background**

Plaintiff filed its complaint asserting claims for breach of contract against the above captioned defendant on September 15, 2008. The Court's electronic records reflect that the summons was returned on November 16, 2008, and that personal service was obtained on defendant Phillip A. Wolf on November 10, 2008. Plaintiff requested entry of default on December 15, 2008, and

judgment.

The Court also reminds defendant Wolf that, although he has elected to represent himself without the benefit of counsel in this matter, he is bound to comply with all rules and orders of this Court, including the Local Rules for the United States District Court for the District of Wyoming and the Federal Rules of Civil Procedure.

After the defendant has filed his answer, the matter shall proceed in the usual manner, including self-executing discovery and an initial pretrial conference at a date and time to be set by separate order of Magistrate Judge Beaman. In view of the foregoing disposition, the Court further finds that the status conference, presently scheduled for **February 6, 2009 at 9:00 a.m.** is not required and that the status hearing date should be **VACATED**.

Accordingly, it is

**ORDERED** that defendant Wolf's motions seeking to set aside entry of default shall be, and are, **GRANTED**. It is further

**ORDERED** that defendant shall file his answer to the plaintiff's complaint on or before **February 13, 2009**. The *pro se* plaintiff is reminded that he must comply with all rules of procedure and orders of this Court in all future proceedings. It is further

**ORDERED** that the status conference set for **February 6, 2009** at 9:00 a.m. in Cheyenne, Wyoming shall be, and is, **VACATED**.

Dated this 27<sup>th</sup> day of January 2009.

  
UNITED STATES DISTRICT JUDGE